IN THE HIGH COURT OF JUDICATURE OF BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.286 OF 1996

IIT Capital Services Ltd. ..Petitioners.

V/s.

Rohan Stamping Pvt.Ltd. ..Respondents.

Ms.Gayatri Sharma i/b. S.K.Srivastava & Co. for petitioners.

CORAM: A.M.KHANWILKAR,J
DATE : SEPTEMBER 1, 2005.

P.C. :

1. Heard counsel for the petitioners. None appears for the respondents. No reply is filed to oppose this petition. In that sense, averments made in this petition have remained uncontroverted.

2. The case of the petitioners is that two lease agreements were executed between the parties, under which the respondent company was liable to pay monthly lease rent. Respondent company remained in arrears of October, 1994 to August, 1995 in the sum of Rs.94,138/-. Under the lease agreement, it is provided that in case of delayed payment, the respondent company would be liable to pay interest at the rate of 2% per month on the outstanding amount. Inspite of repeated reminders, the respondent company failed to offer amount. The petitioners sent

statutory notice, under which he called upon to the respondent company to pay sum of Rs. 9 Lakhs arrears and interest accrued thereon under both the agreements. Though statutory notice was sent to the respondent company on 24th January, 1996, which was duly served, no reply was given by the respondent company. Eventually present petition came to be filed. Even after filing of the present petition and notice before admission given to the respondent company, no reply was given by the respondent company. As the averments made in the present petition remained uncontroverted, petition has been admitted and duly advertised and published. Respondent company has not bothered to appear in the present proceedings. Notice sent by the registry to the respondent company on the registered address has been returned with endorsement "left". As the respondent company has failed to appear in the present proceeding, coupled with the fact that no reply was given to the statutory notice and assertions made in the petition have remained uncontroverted, it necessary follows that the legal presumption that it is unable to pay its debt has remained unrebutted. As a consequence, this petition ought to succeed.

3. The petition is therefore, made absolute in terms of prayer clause (a) and (b).